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October 3, 2003

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW, Room TWB-204
Washington, DC 20554

RE: Comments of TSI Telecommunication Services Inc.
Docket No. 01-338, *Triennial Review Order and FNPRM*

Dear Ms. Dortch:

TSI Telecommunication Services Inc. (TSI) is a global supplier of interoperability solutions to more than 250 telecommunications operators throughout North America, Latin America, Asia-Pacific and Europe. TSI offerings include SS7 signaling services, intelligent network services, database services, fraud and carrier access billing solutions, and other service bureau applications. TSI is based in Tampa, Fla., U.S.A.

Based on our review of this docket, it is our understanding the Commission will remove "nondiscriminatory access to databases and associated signaling" from the unbundled network element list pursuant to Section 251(d)(2), and it is acknowledging that such element is competitively available and that facilities-based competition is growing. This change will require facilities-based competitors, who operate their own switches, to "shop for" or "self-provision" signaling and call-related database solutions. This is important for TSI because we sell signaling and call-related database services.

Signaling is necessary for switched telecommunication services, and all carriers (ILECs, CLECs and CMRS) must have SS7 capability. Carriers may choose to build their own SS7 network, acquire SS7 network services from a third-party provider (like TSI), or purchase signaling services from the incumbent. Building an SS7 network requires a substantial commitment of capital, and those carriers who either do not have the capital resources available or who choose to commit those capital resources to other investment opportunities are left with the choice of purchasing signaling services from a third-party provider or directly from the incumbent LEC.

If a carrier serving the local exchange chooses to purchase "check-list" items from an RBOC, the RBOC is obligated to negotiate terms associated with the exchange of telecommunications traffic, including the exchange of signaling traffic (including ISUP and TCAP messages) consistent with the provisions of the Telecommunications Act of 1996. Normally, negotiated rates associated with interconnection arrangements provide both carriers cost recovery for their investment and the traffic exchanged between carriers is priced on a negotiated reciprocal compensation or a bill and keep basis; consistent with Commission rules.

However, if the carrier chooses to purchase signaling services from a third-party provider, such as TSI, the RBOCs require the third-party provider to purchase signaling from the FCC tariff (at a higher rate). The RBOCs have refused TSI the ability to purchase signaling on the same terms and conditions as our carrier customers on the pretense that the third-party signaling provider is not a carrier which completely ignores the fact that the signaling is being purchased on behalf of a carrier for the carrier's switched telecommunications traffic. Third-party signaling providers carry no voice traffic and have no independent use for signaling messages, except to support the telephone calls of their carrier customers. Accordingly, these practices results in the discriminatory and anti-competitive treatment of those carriers who choose to utilize a third-party provider for signaling services.

TSI signaling services supports local calls exchanged with RBOC networks by our CLEC and CMRS customers. In several states, the RBOCs have implemented an intrastate SS7 message rate structure in a manner that permits the RBOC to assess ISUP (IAM) message charges on local calls that are otherwise subject to interconnection agreements with eligible telecommunications carriers and does so for end-user traffic that the RBOC initiates, which is a violation of applicable reciprocal compensation rules and policies. TSI requests that the FCC recognize that ILEC, CLEC and CMRS carriers can use third-party signaling providers to support the exchange of their traffic with the RBOCs on terms consistent with the Telecommunications Act of 1996, including reciprocal compensation provisions.

In this docket, SBC and Verizon recognized TSI as a competitive alternative to the RBOCs for signaling services. However, we respectfully request the FCC clarify that no matter how a carrier chooses to provision signaling, the benefits of alternative tariff arrangements or negotiated agreements associated with signaling be available to the eligible telecommunications carriers that choose to use a third-party SS7 provider. TSI asserts that RBOCs should not only acknowledge the services and benefits provided by third-party signaling providers, but should afford such third-party signaling providers the same or similar treatment as it does eligible carrier customers who either contract with the RBOC directly for signaling services or provide their own independent SS7 signaling services. A carrier should not be penalized with higher rates and/or differing terms and conditions simply by choosing a third-party alternative to the RBOCs for signaling services. A RBOCs refusal to offer similar terms and conditions to third-party alternative signaling providers who stand in the shoes of their carrier customers results in the discriminatory and anti-competitive treatment of those third-party providers and their carrier customers.

In addition, if the Commission removes a network element from the unbundled network element list pursuant to Section 251(d)(2), it is acknowledging that such element is competitively available and that facilities-based competition is growing. Forbearance from requiring compliance with Section 271(c)(2)(B) for a network element that has been delisted pursuant to Section 251(d)(2) discourages competitors from unnecessary, continued reliance on RBOC facilities. Likewise, forbearance should foster competition by encouraging competitors to build their own facilities or to seek out competitive alternatives. TSI believes that RBOCs should be scrutinized and demonstrate the use of TELRIC pricing for competitive interconnection services or interconnection services available from third parties to prevent below cost pricing.

In summary, TSI respectfully requests the Commission to find in this proceeding that signaling elements are competitively available either through third-party providers (like TSI), or through self provisioning, and ILEC competitors do not need mandatory access to these elements, as required by Section 271(c)(2)(B), to compete with ILECs, generally, or BOCs, specifically. Moreover, the competitive availability of these elements negates any need to require them under Section 271(c)(2)(B) to address the risks of remonopolization of long distance markets. The FCC should clarify in its findings that competitive carriers can use third-party signaling providers with an expectation of similar terms as purchasing directly from the RBOC. In addition, the FCC should encourage TELRIC rates to prevent below cost pricing for signaling services. TSI encourages the FCC to create policies that promote innovation for interconnection services and expand the availability of providers and offerings in the market. TSI respectfully requests the FCC consideration of these issues. If TSI can provide any additional information, please contact me at 813-273-3307.

Very truly yours,

David J. Robinson
TSI Telecommunication Services, Inc.